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**UNITED STATES DISTRICT COURT  
CENTRAL DISTRICT OF CALIFORNIA**

GENEFLOR SACRO, on behalf of  
herself and all other similarly-situated  
individuals,

Plaintiff,

vs.

BROOKDALE SENIOR LIVING  
COMMUNITIES, INC, a Delaware  
corporation; BROOKDALE LIVING  
COMMUNITIES, INC., a Delaware  
corporation; BKD TWENTY-ONE  
MANAGEMENT COMPANY, INC., a  
Delaware corporation; and DOES 1  
through 10, inclusive

Defendants.

Case No.:

CLASS ACTION

**COMPLAINT FOR:**

1. FAILURE TO PAY OVERTIME  
(*Cal. Lab. Code §§ 510 & 1194*; 8  
*Cal. Code Regs. § 11050, ¶ 3*);
2. FAILURE TO PAY AT LEAST  
MINIMUM WAGE FOR ALL  
HOURS WORKED (*Cal. Lab.  
Code §§ 223, 1194, 1194.2 &  
1197*; 8 *Cal. Code Regs. § 11050,  
¶ 4*);
3. FAILURE TO PAY WAGES FOR  
MISSED MEAL PERIODS (*Cal.  
Lab. Code §§ 226.7 & 512*; 8 *Cal.  
Code Regs. § 11050, ¶ 11*);
4. FAILURE TO PAY WAGES FOR  
MISSED REST PERIODS (*Cal.  
Lab. Code § 226.7*; 8 *Cal. Code  
Regs. § 11050, ¶ 12*);

5. FAILURE TO KEEP AND FURNISH ACCURATE WAGE STATEMENTS (*Cal. Lab. Code* § 226);
  6. WAITING TIME PENALTIES (*Cal. Lab. Code* §§ 201, 202 & 203);
  7. UNFAIR COMPETITION (*Cal. Bus. & Prof. Code* §§ 17200 *et seq.*);
- AND DEMAND FOR JURY TRIAL**

### **NATURE OF ACTION**

1. This is a class action brought against Defendants BROOKDALE SENIOR LIVING COMMUNITIES, INC., BROOKDALE LIVING COMMUNITIES, INC., BKD TWENTY-ONE MANAGEMENT COMPANY, INC., and defendants DOES 1 through 10, inclusive (collectively, “Defendants”), under the California Labor Code, the applicable Wage Order of the California Industrial Welfare Commission, the California Business and Professions Code (sections 17200 *et seq.*), and other statutes and regulations applicable to non-exempt employees in the State of California.

2. This action arises out of Defendants’ failure and/or refusals to provide Plaintiff GENEFLOR SACRO (hereafter, “Plaintiff”), and other similarly-situated former and current non-exempt employees of Defendants: (i) their proper overtime compensation for all work in excess of 8 hours per day; (ii) the minimum-wage compensation required by California law for each hour worked; (iii) the uninterrupted, duty-free meal and rest periods required by California law; (iv) the premium wages earned by employees for each day an employee was unable to take a meal period mandated by California law; and (v) the premium wages earned by employees for each day an employee was unable to take a rest period mandated by California law. Instead, Defendant have taken the aforesaid wages owed to Plaintiff, and other non-exempt employees of Defendants, and unlawfully converted the funds for Defendants’ own use and benefit, in order to

1 maximize profits and gain an unfair business advantage over Defendants' competitors at  
2 the expense of Defendants' own employees.

3 3. Defendants' wage-and-hour policies, as described herein, violate multiple  
4 provisions of the California Labor Code, including sections 201, 202, 223, 226, 226.7,  
5 510, 512 and 1197, as well as paragraphs 3, 4, 7, 11 and 12 of Wage Order 5-2001 of the  
6 California Industrial Welfare Commission.

7 4. Plaintiff now brings this class action, on behalf of herself and other  
8 similarly-situated former and current non-exempt employees of Defendants, to recover  
9 the unpaid compensation owed to Plaintiff and the other employees by Defendants, as  
10 well as all applicable statutory penalties arising from Defendants' repeated violations of  
11 the California Labor Code.

### 12 **THE PARTIES**

13 5. Plaintiff is, and at all relevant times was, a competent adult residing in  
14 Ventura County in the State of California.

15 6. Defendant BROOKDALE SENIOR LIVING COMMUNITIES, INC. is, and  
16 at all relevant times was, a corporation duly organized under the laws of the State of  
17 Delaware, with its principal place of business in Brentwood, Tennessee. Throughout the  
18 time relevant to this action, it has conducted business in the State of California, including  
19 within the geographical boundaries of the United States District Court for the Central  
20 District of California.

21 7. Defendant BROOKDALE LIVING COMMUNITIES, INC. is, and at all  
22 relevant times was, a corporation duly organized under the laws of the State of Delaware,  
23 with its principal place of business in Brentwood, Tennessee. Throughout the time  
24 relevant to this action, it has conducted business in the State of California, including  
25 within the geographical boundaries of the United States District Court for the Central  
26 District of California.

27 8. Defendant BKD TWENTY-ONE MANAGEMENT COMPANY, INC. is,  
28 and at all relevant times was, a corporation duly organized under the laws of the State of

1 Delaware, with its principal place of business in Brentwood, Tennessee. Throughout the  
2 time relevant to this action, it has conducted business in the State of California, including  
3 within the geographical boundaries of the United States District Court for the Central  
4 District of California.

5 9. Defendants BROOKDALE SENIOR LIVING COMMUNITIES, INC.,  
6 BROOKDALE LIVING COMMUNITIES, INC., and BKD TWENTY-ONE  
7 MANAGEMENT COMPANY, INC. are hereafter collectively referred to as the  
8 “Brookdale Defendants.”

9 10. Plaintiff is currently unaware of the true names and capacities of the  
10 defendants sued in this action by the fictitious names DOES 1 through 10, inclusive, and  
11 therefore sue those defendants by fictitious names. Plaintiff shall seek leave to amend  
12 this Complaint to allege the true names and capacities of such fictitiously-named  
13 defendants when they are ascertained.

14 11. Plaintiff is informed and believes, and based thereon alleges, that each  
15 defendant sued in this action act and acted, in all respects pertinent to this action, as the  
16 agent of the other defendants, carried out a joint scheme, business plan or policy in all  
17 respects pertinent hereto, and that the acts of each defendant are legally attributable to the  
18 other defendants.

19 12. Plaintiff is informed and believes, and based thereon alleges, that each  
20 defendant sued in this action, including each defendant sued by the fictitious names  
21 DOES 1 through 10, inclusive, is directly or indirectly responsible in some manner for  
22 the occurrences, controversies and damages alleged herein, in various capacities,  
23 including but not limited to serving as joint employer, joint tortfeasor or *alter ego* of the  
24 other defendants. Each defendant approved or ratified the acts of all other defendants.

### 25 **JURISDICTION AND VENUE**

26 13. The jurisdiction of this Court over the subject matter of this action is  
27 predicated on 28 U.S.C. § 1332, subdivision (a)(1). The matter in controversy exceeds  
28

1 the sum or value of \$75,000, exclusive of interest and costs, and is between citizens of  
2 different states.

3 14. Venue is proper in this Court under 28 U.S.C. § 1391, subdivision (b)(2).  
4 Plaintiff and numerous other similarly-situated former and current non-exempt  
5 employees of the Brookdale Defendants were employed in facilities located within the  
6 geographical boundaries of the United States District Court for the Central District of  
7 California, such that a substantial part of the events and omissions in this wage-and-hour  
8 class action occurred in this judicial district.

9 **ALLEGATIONS COMMON TO ALL CAUSES OF ACTION**

10 15. The Brookdale Defendants are recognized to be the largest owner and  
11 operator of senior living communities throughout the United States, and operates a  
12 number of such facilities throughout the State of California, including within this judicial  
13 district. Throughout the time relevant to this action, the Brookdale Defendants have  
14 employed numerous non-exempt Nurses, including Plaintiff, to provide round-the-clock  
15 healthcare services to the Brookdale Defendants' resident patients.

16 16. From March 3, 2015 through June 2, 2016, Plaintiff worked as a Registered  
17 Nurse Supervisor at the Brookdale Defendants' facility called "Emeritus at Camarillo,"  
18 located in Camarillo, California. Plaintiff was classified as a non-exempt employee  
19 throughout said employment.

20 17. Plaintiff is informed and believes, and based thereon alleges, that  
21 Defendants likewise classified the Brookdale Defendants' other former and current  
22 Nurses in California as non-exempt employees throughout the relevant time period.

23 18. Throughout the relevant period, the terms and conditions of employment for  
24 Plaintiff, and other former and current non-exempt Nurses of the Brookdale Defendants  
25 in California, were and are governed by the California Labor Code and Wage Order 5-  
26 2001 of the California Industrial Welfare Commission ("Wage Order 5-2001"), which  
27 sets the employment standards for employees in "establishments offering board or  
28

lodging in addition to medical, surgical, nursing, convalescent, agent, or child care.” [See 8 Cal. Code Regs. § 11050, ¶¶ 1. & 2.(P)(4).]

19. Throughout the time relevant to this action, Defendants maintained a policy and/or practice under which they systemically failed to provide their former and current non-exempt Nurses, including Plaintiff, with all earned overtimes wages for work beyond 8 hours in a day. Specifically, Defendants’ strict policy and practice against so-called unscheduled overtime resulted in repeated overtime violations committed against Plaintiff and other Nurses.

20. Per Defendants’ policy and practice, non-exempt Nurses, including Plaintiff, were instructed to work only pre-approved overtime, such as that incurred for mandatory meetings that occasionally compelled Plaintiff and other Nurses to work beyond their scheduled 8-hour shift.

21. Defendants’ strict policy against unscheduled overtime, coupled with the excessive workloads imposed on Nurses by Defendants, resulted in a regular practice whereby the non-exempt Nurses, including Plaintiff, were made to clock out at the scheduled end of their 8-hour shift, but then continue working to complete daily *postliminary* duties, including preparing reports and/or other paperwork required by their employer. By such practice, Plaintiff and other Nurses routinely worked between 10 to 14 hours per shift.

22. In violation of Labor Code section 510, and paragraph 3(B)(8) of Wage Order 5-2001, Plaintiff and other Nurses were routinely not paid the premium overtimes wages earned for the *postliminary* duties they performed following their scheduled 8-hour shifts.

23. Similarly, Defendants also failed to properly compensate Plaintiff and other Nurses for work performed during ostensible meal breaks for which they regularly remained on duty. As detailed below, Defendants instructed Plaintiff and other Nurses to have their time records reflect meal breaks for which they could not be relieved of all work duties, which was oftentimes accomplished by retroactive editing of the employees’

1 time records by the employer's administrative personnel. If Plaintiff and/or other Nurses  
2 were unable to clock out for meal period because they were too busy working, they were  
3 instructed to fill out a Kronos Adjustment form to "correct" their hours.

4 24. As Plaintiff and other Nurses worked scheduled 8-hour shifts that  
5 specifically excluded these off-the-clock yet on-duty meal times, these periods of work  
6 should have been compensated at the respective employees' overtime rate. Instead, no  
7 wages were paid for the ostensible meal periods during which Nurses, including Plaintiff,  
8 remained on duty.

9 25. Indeed, no wages at all were paid to Plaintiff and other Nurses for the off-  
10 the-clock work they were compelled to perform: (i) during ostensible meal periods; and  
11 (ii) to complete *postliminary* duties following the end of their scheduled shifts. Such  
12 failure to pay wages for work performed are thus also in violation of Labor Code sections  
13 222 and 1197, and paragraph 4 of Wage Order 5-2001, under which employers in  
14 California are required to pay employees at least the legally-mandated minimum wage for  
15 each hour worked.

16 26. As noted *supra*, Defendants maintained a policy and/or practice under which  
17 they systematically failed to provide their former and current Nurses, including Plaintiff,  
18 with all meal periods required by the California Labor Code and Wage Order 5-2001.  
19 Defendants have also systematically failed to pay each such employee an additional hour  
20 of wages for each shift in which the employee is denied a mandated period, as required  
21 by Labor Code section 226.7(c) and Wage Order 5-2001.

22 27. Pursuant to California Labor Code sections 226.7(b) and 512, and paragraph  
23 11 of Wage Order 5-2001, employers in California are required to provide employees  
24 who work in excess of 5 hours in a shift, like Plaintiff and the Brookdale Defendants'  
25 other former and current Nurses, at least one off-duty meal break of at least 30  
26 consecutive minutes in duration. These laws further require that a second, off-duty meal  
27 break of at least 30 consecutive minutes in duration be provided to all employees who  
28 work in excess of 10 hours in a shift. However, the excessive workloads imposed by



1 Defendants routinely compelled Plaintiff and other Nurses to forego the off-duty meal  
2 periods ostensibly guaranteed by California law.

3 28. Instead, Plaintiff and other Nurses were compelled to remain on duty  
4 throughout their shifts, grabbing meals and drinks on-the-go as they continued with their  
5 assigned work duties. Although Defendants instructed Plaintiff and other Nurses to clock  
6 out for purported meal breaks under threat of discipline, the excessive workloads  
7 imposed by Defendants obliged these Nurses to continue to remain on duty despite being  
8 off-the-clock for a supposed meal period, a pattern and practice of which their  
9 supervisors were well aware.

10 29. When Plaintiff and/or other Nurses were unable to physically clock out for  
11 purported meal breaks due to their excessive duties, Defendants instructed them to fill out  
12 a Kronos Adjustment form to “correct” their hours, i.e., to make it appear that they took  
13 their meal break and “forgot” to record it, even though the purported meal break is one  
14 that they never actually took.

15 30. Pursuant to California Labor Code section 226.7(c), and paragraph 11(B) of  
16 Wage Order 5-2001, employers in California are required to pay employees premium  
17 wages for missed meal periods, amounting to an additional hour of wages for each shift  
18 in which the employee is denied a meal period mandated by the Labor Code and the  
19 applicable Wage Order.

20 31. Despite Defendants’ systemic denial of the off-duty meal periods guaranteed  
21 by California law, as described herein, Defendants have made no effort to pay Plaintiff  
22 and other Nurses the additional hour of wages earned for each shift in which an employee  
23 was denied a mandated meal period, resulting in repeated violations of Labor Code  
24 section 226.7(c) and paragraph 11(B) of Wage Order 5-2001.

25 32. Pursuant to California Labor Code sections 226.7(b), and paragraph 12 of  
26 Wage Order 5-2001, employers in California are also required to authorize and permit all  
27 employees who work at least three and one-half hours per day a rest break of at least 10  
28 consecutive minutes in duration for every four hours worked, or major fraction thereof.



1 As such, employees who work at least 8 hours in a day, such as Plaintiff and the  
2 Brookdale Defendants' other former and current Nurses, were entitled to at least two 10-  
3 minute rest breaks for every scheduled 8-hour shift.

4 33. However, the excessive workloads imposed on Plaintiff and the other Nurses  
5 also did not provide proper opportunity for these employees to take the 10-minute rest  
6 periods ostensibly guaranteed to these workers under California law. Instead, Plaintiff  
7 and the other Nurses were compelled to remain on duty throughout their busy work  
8 shifts, as their substantial workloads routinely deprived them of the opportunity to take  
9 10-minute rest periods, a pattern and practice of which their supervisors were well aware.

10 34. Pursuant to California Labor Code section 226.7(c), and paragraph 12(B) of  
11 Wage Order 5-2001, employers in California are required to pay employees premium  
12 wages for missed rest periods, amounting to an additional hour of wages for each shift in  
13 which the employee is denied a rest period mandated by the Labor Code and the  
14 applicable Wage Order.

15 35. Despite Defendants' systemic denial of the opportunity to take the off-duty  
16 rest periods guaranteed by California law, as described herein, Defendants have made no  
17 effort to pay Plaintiff and other Nurses the additional hour of wages earned for each shift  
18 an employee was not allowed a mandated rest period, resulting in repeated violations of  
19 Labor Code section 226.7(c) and paragraph 12(B) of Wage Order 5-2001.

20 36. As a further result of Defendants' improper policies and practices regarding  
21 meal and rest breaks, overtime, and minimum wage, as outlined herein, Defendants have  
22 also failed to provide Plaintiff and other Nurses with accurate wage statements properly  
23 reflecting the employees' earned wages overtime, minimum-wage and missed-break  
24 compensation, in violation of Labor Code section 226 and paragraph 7 of Wage Order 5-  
25 2001.

26 37. As a further result of Defendants' improper policies and practices regarding  
27 overtime, minimum wage, and premium wages for missed breaks, as outlined herein,  
28 Defendants have also failed to provide Plaintiff and other Nurses with all earned wages

1 within the time limits prescribed by sections 201, 202 and 204 of the California Labor  
2 Code.

3 **CLASS ACTION ALLEGATIONS**

4 38. This action may be properly maintained as a class action pursuant to the  
5 provisions of Rule 23 of the Federal Rules of Civil Procedure.

6 39. Plaintiff brings this suit as a class action on behalf of herself and of the class  
7 of individuals that are defined as follows:

- 8 a. all individuals who worked for Defendants in California as a  
9 non-exempt Nurse, including, but not limited to, registered  
10 nurses and vocational nurses, and worked at any time from the  
11 4-year period preceding the filing of this Complaint through the  
12 present (hereafter, collectively referred to as "Class Members");  
13 b. Plaintiff further seeks to establish one subclass, the Labor Code  
14 Section 203 Subclass, which is defined as all Class Members  
15 who worked during the relevant time period who are no longer  
16 employed by Defendants.

17 40. The Class Members are so numerous that joinder of each individual member  
18 would be impracticable, and the disposition of their claims in a class action, rather than in  
19 numerous individual actions, will benefit the parties, the Court, and the interests of  
20 justice.

21 41. Although the exact number of Class Members is unknown to Plaintiff at this  
22 time, and as such, must be ascertained through discovery, Plaintiff is informed and  
23 believes, and based thereon alleges, that there are approximately more than 200 members  
24 of the proposed class throughout the State of California. The Class Members other than  
25 Plaintiff are readily ascertainable by their job positions and duties, and from the books  
26 and records maintained by Defendants in their regular course of business.

27 42. There is a well-defined community of interest amongst the Class Members,  
28 as all of these individuals have resided and worked in California, and have been similarly

1 subjected to unlawful policies and/or practices that deprived them of earned overtime  
2 wages; minimum-wage compensation; mandated meal and rest periods; the premium  
3 wages earned for missed meal and rest periods; accurate, itemized wage statements  
4 reflecting all earned wages; and timely payment of all earned wages.

5 43. Common questions of law and fact that affect the class predominate over  
6 questions that affect only individual Class Members, including, among other things: (a)  
7 whether Defendants maintained a policy and/or practice whereby Defendants routinely  
8 failed to pay Class Members earned overtime compensation, resulting in violations of the  
9 overtime provisions of the California Labor Code and Wage Order 5-2001; (b) whether  
10 Defendants maintained a policy and/or practice whereby Defendants routinely failed to  
11 pay Class Members at least the legally-mandated minimum wage for all hours worked,  
12 resulting in violations of the minimum-wage requirements of the California Labor Code  
13 and Wage Order 5-2001; (c) whether Defendants maintained a policy and/or practice of  
14 refusing or failing to provide Class Members the meal periods mandated under California  
15 law; (d) whether Defendants maintained a policy and/or practice of refusing or failing to  
16 authorize or permit employees to take all rest periods mandated by California law; (e)  
17 whether Defendants maintained a policy or practice of refusing or failing to pay Class  
18 Members the premium wages owed to them for each work shift during which they were  
19 denied a mandated meal or rest period, in violation of California Labor Code section  
20 226.7 and Wage Order 5-2001; (f) whether Defendants maintained a policy or practice of  
21 failing to pay all wages owed to Class Members, including all overtime, minimum-wage  
22 and missed-break compensation, within the time limits prescribed by the California Labor  
23 Code; and (g) whether Defendants maintained a policy or practice of failing to maintain  
24 and/or furnish accurate, itemized wage statements properly reflecting, *inter alia*, all Class  
25 Members' earned wages, all hours worked, and all applicable rates of pay.

26 44. Plaintiff's claims are typical of the claims of the Class Members in this  
27 action, because: (a) Plaintiff's job position and duties are similar, if not identical to, the  
28 duties and activities of other Class Members; (b) Plaintiff was similarly deprived of

1 earned overtime compensation for compelled but off-the-clock work as other Class  
2 Members; (c) Plaintiff was similarly denied the right to payment of at least the legally-  
3 mandated minimum wage for all hours worked as other Class Members; (d) Plaintiff was  
4 denied the same meal- and rest-period benefits, including additional compensation for  
5 missed meal and rest breaks, as other Class Members; (e) Plaintiff was similarly not  
6 given accurate, itemized wage statements required by the Labor Code as other Class  
7 Members; (f) Plaintiff was similarly not paid all of her earned wages within the time  
8 limits prescribed by the Labor Code as other Class Members; and (g) Plaintiff was denied  
9 the foregoing rights and benefits provided under California's employment laws and  
10 regulations in the same manner that such rights and benefits were denied to other Class  
11 Members.

12 45. It is by now common knowledge that employees face great risks in pursuing  
13 separate actions. For these and other reasons, a class action is superior to other methods  
14 for the fair and efficient adjudication of this controversy. Individual wage-and-hour  
15 actions are expensive in terms of attorneys' fees and litigation costs, the great majority of  
16 Class Members are unlikely to find attorneys to represent them in such actions, and the  
17 Class Members would find it difficult, if not impossible, to afford to pay hourly fees to  
18 attorneys for such actions.

19 46. Moreover, administrative proceedings are by no means an adequate or  
20 appropriate remedy against Defendants' wage-and-hour violations. Among other  
21 limitations in administrative proceedings, for example, there is limited discovery  
22 permitted, and limited relief available, in California Labor Commission cases; employers  
23 are typically represented by attorneys while plaintiff-employees are usually not, and are  
24 not afforded counsel by the Labor Commissioner; no attorneys' fees are recoverable for  
25 the administrative hearing, whereas in a civil action such as this one there are attorneys'  
26 fees statutes in favor of the plaintiff; administrative relief is limited to a shorter statute of  
27 limitations than is available in this action under California Business and Professions Code  
28

1 sections 17200 *et seq.*; and any decision made by the Labor Commission is subject to trial  
2 *de novo* in the court, and thus would be very wasteful of time, costs, and other resources.

3 47. Plaintiff can adequately represent the interests of the Class Members  
4 because, like them, Plaintiff was employed by Defendants to work as Nurses in the  
5 Brookdale Defendants' California facilities, and Plaintiff suffered the same or similar  
6 injuries as other Class Members as a result of Defendants' repeated failures to comply  
7 with the applicable California employment laws and regulations governing the provision  
8 of overtime compensation; minimum-wage compensation; meal- and rest-period benefits,  
9 including premium wages for missed meal and rest breaks; timely payment of wages; and  
10 recordkeeping requirements.

11 48. Furthermore, Plaintiff has retained counsel who are experienced in  
12 prosecuting employment actions, including wage-and-hour class actions. Plaintiff and  
13 her counsel are committed to vigorously prosecuting this action on behalf of the class,  
14 and have the financial resources necessary to do so.

15 **FIRST CAUSE OF ACTION**  
16 **For Failure to Pay Overtime**

(*Cal. Lab. Code §§ 510 & 1194; 8 Cal. Code Regs. § 11050, ¶ 3*)

17 49. Plaintiff incorporates by reference and re-alleges paragraphs 1 through 48,  
18 inclusive, as though set forth fully herein.

19 50. Pursuant to section 510 of the California Labor Code, employers in  
20 California are required to pay their non-exempt employees "one and one-half times the  
21 regular rate of pay" for any work in excess of 8 hours per day, and "twice the regular rate  
22 of pay" for any work in excess of 12 hours per day. Similarly, paragraph 3 of Wage  
23 Order 5-2001 requires employers in California to pay a non-exempt employee "one and  
24 one-half (1½) times such employee's regular rate of pay" for work in excess of 8 hours,  
25 but not more than 12 hours, per day, and "[d]ouble the employee's regular rate of pay"  
26 for all work in excess of 12 hours per day.

27 51. As alleged herein, Class Members, including Plaintiff, are not exempt from  
28 these overtime requirements of the California Labor Code and Wage Order 5-2001.

52. As described herein, Defendants unlawfully deprived Plaintiff and other Class Members of earned overtime compensation for the off-the-clock work compelled by Defendants. Under Defendants' unlawful policy and practice, Plaintiff and other Class Members were made to regularly work off the clock during ostensible meal periods, and after clocking out at the scheduled end of their shifts to complete *postliminary* duties, such that these Nurses routinely worked in excess of 8 hours in a day, and oftentimes in excess of 12 hours in a day, without the payment of earned overtime for such work. Indeed, per Defendants' policy and practice, as described herein, Plaintiff and other Class Members were not paid any wages at all for such work.

53. Based on Defendants' conduct, as alleged herein, Defendants are liable to the Class Members, including Plaintiff, for unpaid overtime compensation, in amounts to be proven at trial, plus interest thereon, and attorneys' fees and costs, pursuant to California Labor Code sections 510 and 1194, and Wage Order 5-2001.

**SECOND CAUSE OF ACTION**  
**For Failure to Pay At Least Minimum Wage for All Hours Worked**  
**(*Cal. Lab. Code* §§ 223, 1194, 1194.2 & 1197; 8 *Cal. Code Regs.* § 11050, ¶ 4)**

54. Plaintiff incorporates by reference and re-alleges paragraphs 1 through 53, inclusive, as though set forth fully herein.

55. Under section 1197 of the California Labor Code, and paragraph 4 of Wage Order 5-2001, employers in California are required to pay employees at least the set minimum wage for each hour an employee works, in amounts set by state law. Labor Code section 1194 provides that any employee who has not been paid the legal minimum wage, as required by Labor Code section 1197 and the applicable Wage Order, may recover the unpaid balance, including interest thereon, plus attorneys' fees and costs of suit. Additionally, Labor Code section 1194.2 provides that the employee shall be entitled to recover liquidated damages against the offending employer for the minimum-wage violations, in an amount equal to the wages unlawfully unpaid, plus interest thereon.



1           56. As a result of Defendants' improper policy and/or practice of compelling  
2 Class Members, including Plaintiff, to perform off-the-clock work, during ostensible  
3 meal periods Class Members were not actually able to take, and after clocking out at the  
4 scheduled end of their shift in order to complete *postliminary* work required by  
5 Defendants, Defendants have repeatedly failed to pay Plaintiff and other Class Members  
6 any compensation at all for each hour worked beyond each employee's scheduled 8-hour  
7 work shifts. As such, Defendants have failed to pay Plaintiff and the other Class  
8 Members the minimum wages to which these employees are entitled, under Labor Code  
9 section 1197 and Wage Order 5-2001, for each hour the employee worked beyond 8  
10 hours in a day. [See *Cal. Lab. Code* §§ 221 – 223 & 1197; *Armenta v. Osmose, Inc.*  
11 (2005) 135 Cal.App.4<sup>th</sup> 314, 321-24; see also Division of Labor Standards Enforcement  
12 (DLSE) Enforcement Policies and Interpretations Manual, § 44.1.5 – 44.2.2.1 (2002).]

13           57. Based on Defendants' conduct, as alleged herein, Defendants are liable to  
14 the Class Members, including Plaintiff, for unpaid minimum-wage compensation, in  
15 amounts to be proven at trial, plus interest thereon, and attorneys' fees and costs,  
16 pursuant to Labor Code sections 1194 and 1197, and Wage Order 5-2001. In addition,  
17 Defendants are liable to Plaintiff and other Class Members for liquidated damages, in  
18 amounts to be proven at trial, pursuant to Labor Code section 1194.2.

19                           **THIRD CAUSE OF ACTION**  
20                           **For Failure to Pay Wages for Missed Meal Periods**  
                          **(*Cal. Lab. Code* §§ 226.7 & 512; 8 *Cal. Code Regs.* § 11050, ¶ 11)**

21           58. Plaintiff incorporates by reference and re-alleges paragraphs 1 through 57,  
22 inclusive, as though set forth fully herein.

23           59. At all times relevant to this action, Defendants' policy and practice routinely  
24 denied Class Members, including Plaintiff, the opportunity to take: (i) an uninterrupted,  
25 off-duty meal period of at least 30 consecutive minutes in duration for all shifts in excess  
26 of 5 hours, and (ii) a second, uninterrupted, off-duty meal period of at least 30  
27 consecutive minutes in duration for all shifts in excess of 10 hours, in violation of Labor  
28 Code sections 226.7(b) and 512, and paragraph 11 of Wage Order 5-2001.



1           60. As described herein, Defendants' repeated failures and/or refusals to allow  
2 Plaintiff and other Class Members the opportunity to take mandated meal periods resulted  
3 from Defendants' policy and/or practice of compelling these Nurses to work through  
4 ostensible meal periods in order to satisfy the excessive workloads imposed by  
5 Defendants.

6           61. Under paragraph 11 of Wage Order 5-2001, employers in California must  
7 pay their employees an additional hour of wages for each shift in which an employee is  
8 denied the opportunity to take a mandated meal period. California Labor Code section  
9 226.7(c) likewise requires employers to pay employees an additional hour of  
10 compensation for every shift in which an employee is denied the opportunity to take a  
11 meal period mandated by the Labor Code or any Wage Order of the California Industrial  
12 Welfare Commission.

13           62. At all times relevant herein, Defendants have failed and/or refused to  
14 provide Class Members, including Plaintiff, with the additional compensation owed for  
15 each shift in which the employee was denied the opportunity to take a mandated meal  
16 break, as required by Labor Code sections 226.7(c) and 512, and Wage Order 5-2001.

17           63. Based on Defendants' conduct, as alleged herein, Defendants are liable to  
18 the Class Members, including Plaintiff, for unpaid additional premium wages earned for  
19 missed meal periods, in amounts to be proven at trial, pursuant to California Labor Code  
20 section 226.7(c) and Wage Order 5-2001, plus interest thereon, and attorneys' fees and  
21 costs, pursuant to California Code of Civil Procedure section 1021.5.

22                           **FOURTH CAUSE OF ACTION**  
23                           **For Failure to Pay Wages for Missed Rest Periods**  
24                           **(Cal. Lab. Code § 226.7; 8 Cal. Code Regs. § 11050, ¶ 12)**

25           64. Plaintiff incorporates by reference and re-alleges paragraphs 1 through 63,  
26 inclusive, as though set forth fully herein.

27           65. At all times relevant to this action, Defendants' policy and/or practice  
28 routinely denied Class Members, including Plaintiff, the opportunity to take an  
uninterrupted, off-duty rest period, of at least 10 consecutive minutes in duration, for

every 4 hours worked, or major fraction thereof, in violation of Labor Code section 226.7(b) and paragraph 12 of Wage Order 5-2001.

66. As described herein, Defendants' repeated failures and/or refusals to allow Class Members, including Plaintiff, the opportunity to take mandated rest periods resulted from Defendants' policy and/or practice of compelling these Nurses to work through and/or forego mandated rest periods, in order to satisfy the excessive workloads imposed by Defendants.

67. Under paragraph 12 of Wage Order 5-2001, employers in California must pay their employees an additional hour of wages for each shift in which an employee is denied the opportunity to take a mandated rest period. California Labor Code section 226.7(c) likewise requires employers to pay employees an additional hour of compensation for every shift in which an employee is denied the opportunity to take a rest break mandated by the Labor Code or any Wage Order of the California Industrial Welfare Commission.

68. At all times relevant herein, Defendants have failed and/or refused to provide Class Members, including Plaintiff, the additional compensation owed for each shift in which the employee was denied the opportunity to take a mandated rest break, as required by Labor Code sections 226.7(c) and 512, and Wage Order 5-2001.

69. Based on Defendants' conduct, as alleged herein, Defendants are liable to the Class Members, including Plaintiff, for unpaid additional premium wages earned for missed rest periods, in amounts to be proven at trial, pursuant to California Labor Code section 226.7(c) and Wage Order 5-2001, plus interest thereon, and attorneys' fees and costs, pursuant to California Code of Civil Procedure section 1021.5.

**FIFTH CAUSE OF ACTION**  
**For Failure to Keep and Furnish Accurate Wage Statements**  
**(Cal. Lab. Code § 226)**

70. Plaintiff incorporates by reference and re-alleges paragraphs 1 through 69, inclusive, as though set forth fully herein.

1           71. As a result of Defendants' pattern and practice of failing and/or refusing to  
2 pay Class Members, including Plaintiff, all accrued wages, as described herein,  
3 Defendants have further failed to furnish Plaintiff and other Class Members with itemized  
4 wage statements that accurately reflect the amount of hours actually worked by these  
5 employees, all of their applicable rates of pay, and the amounts of overtime, minimum-  
6 wage and missed-break compensation earned by these employees, for each pay period, as  
7 required by California Labor Code section 226(a) and paragraph 7 of Wage Order 5-  
8 2001.

9           72. As a result of Defendants' repeated failures and/or refusals to pay Class  
10 Members, including Plaintiff, all of their accrued wages, as described herein, Defendants  
11 have also failed to maintain records of itemized wage statements that accurately reflect  
12 the amount of hours actually worked by these employees, all of their applicable rates of  
13 pay, and the amounts of overtime, minimum-wage and missed-break compensation  
14 earned by these employees, for each pay period, as required by California Labor Code  
15 section 226(a) and paragraph 7 of Wage Order 5-2001.

16           73. Defendants' repeated failures to maintain and furnish records of accurate,  
17 itemized wage statements resulted in injury to Class Members, including Plaintiff, as said  
18 failures engendered confusion and facilitated the non-payment of Class Members' earned  
19 overtime, minimum-wage and missed-break compensation. The absence of required  
20 information in Defendants' deficient wage statements engendered confusion over  
21 whether Class Members, including Plaintiff, were each paid all of their earned wages, and  
22 thus served to mislead and/or deter Class Members, including Plaintiff, from challenging  
23 the propriety of wage payments made by Defendants, in light of the difficulty in  
24 attempting to reconstruct time and pay records in the face of Defendants' deficient  
25 recordkeeping. Hence, the absence of essential information, required by state law to  
26 appear in the employee wage statements, caused actual injuries to Plaintiff and the other  
27 Class Members.  
28

1           74. On information and belief, Plaintiff alleges that Defendants' above-  
2 described failures to furnish and maintain records of accurate, itemized wage statements  
3 is, and was, knowing and intentional, and were done to confuse and mislead Class  
4 Members, including Plaintiff, as to the true compensation to which each of them was  
5 entitled under the law.

6           75. Based on Defendants' conduct, as alleged herein, Defendants are liable to  
7 Class Members, including Plaintiff, for the applicable statutory penalties provided for  
8 under California Labor Code section 226(e), for Defendants' violations, in addition to  
9 recovery of costs and reasonable attorneys' fees pursuant to California Labor Code  
10 section 226, subdivisions (e)(1) and (h).

11                           **SIXTH CAUSE OF ACTION**  
12                           **For Waiting Time Penalties**  
                              ***(Cal. Lab. Code §§ 201, 202 & 203)***

13           76. Plaintiff incorporates by reference and re-alleges paragraphs 1 through 75,  
14 inclusive, as though set forth fully herein.

15           77. As alleged herein, Defendants have failed and/or refused to pay Class  
16 Members formerly employed by Defendants (i.e., the members of the proposed Labor  
17 Code Section 203 Subclass), including Plaintiff, all of their earned overtime, minimum-  
18 wage and missed-break compensation. As a result of such failures and/or refusals,  
19 Defendants have failed to pay said employees all earned wages within the time limits  
20 prescribed by California Labor Code sections 201 and 202, which respectively apply to  
21 instances where a former employees resigns or is discharged.

22           78. Based on Defendants' foregoing conduct, Defendants are liable, to Plaintiff  
23 and other Class Members formerly employed by Defendants, for the statutory penalties  
24 provided for under California Labor Code section 203.

25                           **SEVENTH CAUSE OF ACTION**  
26                           **For Unfair Competition**  
                              ***(Cal. Bus. & Prof. Code §§ 17200 et seq.)***

27           79. Plaintiff incorporates by reference and re-alleges paragraphs 1 through 78,  
28 inclusive, as though set forth fully herein.

1           80. Defendants have violated California law as alleged herein by, *inter alia*: (i)  
2 failing and/or refusing to pay Class Members, including Plaintiff, all overtime  
3 compensation earned for work in excess of 8 hours in a day; (ii) failing and/or refusing to  
4 pay Class Members, including Plaintiff, at least the legally-mandated minimum wage for  
5 each hour worked; (iii) depriving Class Members, including Plaintiff, of their mandated  
6 meal and rest breaks; (iv) failing and/or refusing to pay Class Members, including  
7 Plaintiff, the premium wages earned for missed meal or rest breaks; (v) failing and/or  
8 refusing to provide Class Members, including Plaintiff, with all accrued wages within the  
9 time limits prescribed by California Labor Code section 201, 202 and 204; and (vi)  
10 failing to properly maintain and furnish to Class Members, including Plaintiff, itemized  
11 wage statements that accurately reflect actual work hours worked by, all applicable rates  
12 of pay for, and all accrued wages owed to such Class Members.

13           81. On information and belief, Plaintiff alleges that Defendants have also  
14 engaged in other acts which constitute unlawful business practices. Plaintiff will seek  
15 leave to amend this Complaint to allege these additional acts as may be disclosed by  
16 discovery.

17           82. As a result of Defendants' acts and omissions, as described herein,  
18 Defendants have been able to take advantage of the long work hours of the Class  
19 Members without payment of earned overtime, minimum-wage and missed-break  
20 compensation, for Defendants' own profit and to the detriment of their employees. With  
21 respect to the operation of its business vis-à-vis competitors, Defendants, by unduly  
22 minimizing costs, unfairly competes with similar businesses in the State of California, in  
23 violation of the California Business and Professions Code, sections 17200 *et seq.*

24           83. An injunction should be issued to stop Defendants' unlawful business  
25 practices. If Defendants are not enjoined from the conduct set forth herein, they will  
26 continue to deprive Class Members of earned overtime compensation; continue to fail to  
27 pay Class Members at least the minimum wage for each hour worked; continue to fail to  
28 provide Class Members with the meal and rest periods required by California law;

1 continue to fail to pay Class Members the premium wages owed for missed meal and rest  
2 periods; continue to fail to provide Class Members with all accrued wages and  
3 compensation within the time limits prescribed by the California Labor Code; and  
4 continue to fail to properly maintain and furnish to Class Members itemized wage  
5 statements accurately reflecting actual hours worked and all accrued wages owed to such  
6 employees. Thus, there is threatened future harm and/or continuing violations, which  
7 justifies injunctive relief.

8 84. Plaintiff, therefore, requests that the Court issue a preliminary and  
9 permanent injunction:

10 a. Ordering Defendants to cease and desist from the illegal overtime  
11 policy and/or practice, described herein, that deprives Class Members of earned overtime  
12 and minimum-wage compensation;

13 b. Ordering Defendants to pay all Class Members, including Plaintiff,  
14 the overtime compensation owing to them under California Labor Code section 510 and  
15 Wage Order 5-2001;

16 c. Ordering Defendants to cease and desist from their policy and/or  
17 practice whereby Class Members are denied the meal and rest periods required by  
18 California law; and

19 d. Ordering Defendants to pay all Class Members, including Plaintiff,  
20 the premium wages owed to them, under California Labor Code section 226.7 and Wage  
21 Order 5-2001, for missed meal and rest periods.

22 85. Plaintiff further requests an Order requiring Defendants to disgorge and  
23 restore to Class Members, including Plaintiff, any and all additional compensation  
24 presently owing to them under the California Labor Code and/or Wage Order 5-2001,  
25 that have thus far been wrongfully withheld by Defendants.

26 **PRAYER FOR RELIEF**

27 WHEREFORE, Plaintiff GENEFLOR SACRO prays that the Court award relief as  
28 follows:

1. Unpaid wages and compensation, and statutory penalties, according to proof;
2. Restitution of all compensation due, including but not limited to unpaid wages and interest, as a result of Defendants' unlawful and unfair business practices, according to proof;
3. Preliminary and permanent injunctions enjoining and restraining Defendants from continuing the unfair and unlawful business practices set forth above, and requiring the establishment of appropriate and effective means to prevent future violations, including but not limited to, the maintenance of records that comply with California Labor Code sections 226 and 1174, and the applicable Wage Orders;
4. Declaratory relief;
5. Liquidated damages pursuant to section 1194.2 of the California Labor Code, for Defendants' violations of the minimum-wage provisions of California Labor Code section 1197 and Wage Order 5-2001, according to proof;
6. Reasonable attorneys' fees and costs, pursuant to, *inter alia*, California Labor Code sections 218.5, 226 and 1194, and California Code of Civil Procedure section 1021.5;
7. Interest accrued on damages and penalties, including pre-judgment interest, pursuant to, *inter alia*, California Labor Code sections 218.6, 1194 and 1194.2, and California Civil Code sections 3287 and 3288; and
8. Such other and further relief as the Court deems just and proper.

Dated: April 6, 2017

**LAW OFFICES OF C. JOE SAYAS, JR. and  
SCHONBRUN SEPLOW HARRIS &  
HOFFMAN LLP**

By: /s/ C. Joe Sayas, Jr.  
C. JOE SAYAS, JR.  
KARL P. EVANGELISTA  
Attorneys for Plaintiff



**DEMAND FOR JURY TRIAL**

Plaintiff GENEFLOR SACRO hereby demands a jury trial on all issues so triable.

Dated: April 6, 2017

**LAW OFFICES OF C. JOE SAYAS, JR. and  
SCHONBRUN SEPLOW HARRIS &  
HOFFMAN LLP**

By: /s/ C. Joe Sayas, Jr.  
C. JOE SAYAS, JR.  
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